

Fitness For Duty Procedures

These procedures are intended to be a guide for implementing University Policy HRM-037, "Evaluating Employee Fitness for Duty". This policy applies to all employees of the Academic Division of the University of Virginia, including Staff, Faculty, Clinical Staff, Advanced Practice Providers and Professional Research Staff, and "covers only those situations in which an employee is (1) having observable difficulty performing his/her duties in an effective manner that is safe for the employee and/or for his or her co-workers, or (2) posing a serious safety threat to self or others." (<http://uvapolicy.virginia.edu/policy/HRM-037>).

Required Steps:

1. Co-workers or others whose observations lead them to question an employee's fitness for duty must report their observations to the employee's supervisor.
2. The supervisor will investigate and document those observations using the Fitness for Duty Initial Observation Report. The Report should be forwarded to the department Human Resources Business Partner (HRBP) and/or to a Employee Relations (ER) Consultant who will share the Report with other members of the Coordinating Team.
3. Per University policy, the Coordinating Team shall determine the appropriateness of a FFDE based on the reported behaviors/circumstances that have raised questions about an employee's fitness for duty, and shall facilitate the evaluation. The ER Consultant shall represent UVA HR on the Coordinating Team and shall coordinate aspects of the FFDE process involving the employee and the supervisor.
4. The Employee Relations Consultant will immediately notify parties of interest, potentially including HR Business Partners and/or the Threat Assessment Team, of all FFDE's.
5. The Coordinating Team shall determine the appropriateness of a FFDE within a reasonable time after notification from the supervisor, usually within three business days. A member of the Coordinating Team shall notify the employee of the opportunity to provide any relevant previous medical or psychological treatment information, but this information does not substitute for a FFDE if a FFDE is determined to be necessary.

After the Coordinating Team hears the facts and discusses the issue(s) and the FFDE is the recommended course of action, the ER Consultant will coordinate next steps to include the following actions:

The supervisor will meet with the employee and ask him/her to explain the observed behaviors or impairment and notify him/her in writing (letter generated by UVA HR) informing the employee that they are being placed on leave pending the FFDE. The supervisor will document the employee's response and this information will be shared with the Coordinating Team. (NOTE: It is not imperative that a specific timeline be followed; in some instances, the ER Consultant might coordinate next steps before the Coordinating Team hears facts and discusses the issues.)

- a. The employee is placed on leave and removed from duty while undergoing the FFDE (effort is made to complete this process within two work weeks). As noted in the Policy, during this time “applicable leave policies shall apply” to questions regarding pay.
 - b. The ER Consultant will secure an initial appointment with a member of the FEAP for any employee required to undergo a FFDE due to psychological or behavioral issues. The employee may directly contact FEAP for an appointment, but the ER Consultant should take efforts to facilitate the initial appointment.
 - c. If the FFDE is for psychological, behavioral issues, or a neuropsychological concern, a member of the FEAP team will arrange an appointment for the employee with the independent licensed health care evaluator/forensic psychologist. FEAP will communicate this information to the employee and to UVA HR. The cost incurred by the employee’s department to conduct the psychological FFDE is Typically between \$750 - \$1,200, but may be more.
 - d. For situations involving potential substance impairment or a medical condition, the ER Consultant will arrange an appointment with WorkMed for a medical evaluation which may run concurrently with the psychological FFDE. The ER Consultant will communicate this information to the employee. The cost incurred by the employee’s department to conduct the medical FFDE will be communicated to the department’s HRBP as soon as the appointment is set up.
 - e. For any psychological FFDE, the FEAP will send the evaluator the employee’s job description and any background information or documentation of events or behaviors that caused the need for the FFDE. This information will be obtained from the supervisor and the observation form.
 - f. Following a consultation with the Physician Clinician Wellness Program, an evaluation may be required. If a member of the clinical staff or an Advance Practice Provider is referred for possible impairment (including physical, mental, and/or substance abuse disorders), the non-disciplinary process outlined in the Clinical Staff Bylaws shall first be applied. If the practitioner refuses an evaluation or refuses to comply with treatment recommendations, the process may move to a disciplinary phase. A practitioner’s clinical privileges may be suspended immediately either for refusal to: undergo an evaluation, stop practice after a recommendation has been made for treatment, or non-compliance with required monitoring.
6. The ER consultant manages any questions related to leave status. The employee will not return to work until all aspects of the FFDE are completed. However, while the employee is prohibited from appearing for work until completion of the FFDE and approval to return to work is provided, the Coordinating Team shall use its discretion to determine whether to allow the employee to work off-site or to represent the University in any work-related capacity. The employee must be medically released by the FFD evaluator(s) prior to a return to work.

a. In the initial meeting with FEAP, the employee will be required to sign a written release of information for communication with the appropriate FFD Evaluator and HR/ER representative, and also any treatment provider involved in the FFD process, to include but not limited to WorkMed, the employee's PCP, psychiatrist, therapist and/or the UVA Threat Assessment Team. If the employee refuses to sign the release of information for this communication, the process stops and the employee is referred back to the Employee Relations Consultant. Failure to complete the FFDE may result in disciplinary action.

b. Once the FFDE takes place, the evaluator provides a representative from the FEAP a summary of their assessment, typically within two work days. The assessment may also require further testing or evaluation but will generally be a statement that the employee can:

- return to work
- cannot return to work until certain conditions are met; or
- is not fit to return to work.

c. The evaluator's full report will be delivered to the FEAP. The evaluator will also provide a written summary statement to FEAP. While FEAP will share the summary statement with UVA HR and the Coordinating Team, the full report is not sent to UVA HR or to the supervisor as it usually contains sensitive and personal information less relevant to the findings of the FFDE.

a. If the employee is released to return to work (RTW), Employee Relations and the supervisor will set a date for this return. The supervisor or Employee Relations will communicate the findings to the employee.

b. FEAP, UVA HR, the supervisor and the employee will hold a RTW transition meeting in which the transition is discussed both logistically and in terms of the supervisor's expectations and behaviors for the employee.

c. If the evaluator finds that the employee should not presently return to work without conditions or other reasonable accommodations being made, a representative from the FEAP shall communicate this information to the employee. Employee Relations will communicate with the supervisor and will send a written letter to the employee outlining the expectations for compliance with the FFD process. FEAP will outline with the employee what conditions must be met for RTW to occur. A representative from the FEAP will provide further case management as needed for three to six months to assist the employee in connecting with treatment providers. The Employee Relations Consultant shall also refer the employee to UVA HR Benefits to discuss the possibility of short or long term disability, health insurance questions, etc.

d. If the employee is deemed to be unable to return to work, the employee is then placed into a leave without pay status and the employee can utilize other income replacement options that consist of using available leave balances and/or applying for short-term disability.

e. If the employee complies with the FFD evaluator's recommendation for treatment, a follow-up evaluation will be scheduled to determine if the employee is suitable for a RTW. FEAP will coordinate the follow up consultation if the FFDE involved a psychological evaluation. The Employee Relations Consultant will coordinate the follow-up consultation if the FFDE was with WorkMed.

f. If the employee is not released to RTW, during this time period, the employee is on protected leave and their position cannot be filled. If temporary backfill is required the department can contact the temporary search group to discuss possible temporary replacement options. Throughout the FFDE process it is the responsibility of the employee to maintain communications with the FEAP regarding required treatment.

g. Employees may obtain a copy of the FFD report from FEAP, UVA-WorkMed or Clinician Wellness upon written request.

h. The FFD evaluator submits invoice to FEAP and a copy is given to the FEAP Administrative Specialist to process for payment. The UVA HR consultant provides the FEAP with the appropriate department's PTAO and FEAP will process the bill for payment.